

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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PHILLIP HAROLD HORSWELL,

Case No. 24-CV-949 (NEB/DJF)

Petitioner,

v.

ORDER ACCEPTING REPORT AND  
RECOMMENDATION

STATE OF MINNESOTA,

Respondent.

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The Court has received the March 21, 2024 Report and Recommendation of United States Magistrate Judge Dulce J. Foster. (ECF No. 3.) No party has objected to that Report and Recommendation, and the Court therefore reviews it for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all the files, records, and proceedings in the above-captioned matter, IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation (ECF No. 3) is ACCEPTED;
2. The Petition for Writ of Habeas Corpus (ECF No. 1) is DENIED WITHOUT PREJUDICE;
3. The action is DISMISSED;
4. Petitioner's application to proceed in forma pauperis (ECF No. 2) is DENIED; and

5. No certificate of appealability be issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 22, 2024

BY THE COURT:

s/Nancy E. Brasel

Nancy E. Brasel

United States District Judge